

4/22/74

Document No. 2863 Adopted at Meeting of 7/31/74

Exhibit II

2863

INDENTURE OF LEASE

DATED AS OF

between

CITY OF BOSTON

and

BOSTON REDEVELOPMENT AUTHORITY

## INDENTURE OF LEASE

INDENTURE OF LEASE (hereinafter called "City Lease")

made and entered into as of \_\_\_\_\_, by and between the CITY OF BOSTON a municipal corporation located in the Commonwealth of Massachusetts, as Lessor, (hereinafter called the "City") and the BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate organized under the laws of the Commonwealth of Massachusetts, as Lessee, (hereinafter together with any successors or assigns permitted or authorized by this Lease called the "Authority").

### W I T N E S S E T H:

WHEREAS, with the assistance of the federal, state and city governments, the Authority is carrying out the Waterfront and Government Center Urban Renewal Projects pursuant to:

- (a) the Downtown Waterfront-Faneuil Hall Urban Renewal Plan dated April 15, 1964, approved by the City Council of the City (hereinafter called the "City Council") on June 8, 1964, and by the Mayor of the City on June 11, 1964, and recorded at the Suffolk Registry of Deeds in Book 7948, Page 527, as amended by an amendment thereto, dated April 8, 1965; and
- (b) the Government Center Urban Renewal Plan dated April 3, 1963, approved by the City Council on May 25, 1964, and recorded at the Suffolk Registry of Deeds in Book 8250, Page 187, as amended by an amendment thereto dated May 29, 1963,



(both plans hereinafter, as amended, and as they may from time to time be amended, called the "Plan"); and

WHEREAS, the Plan permits the renovation and restoration of North Market Building, South Market Building and Quincy Market Building, together with certain streets; and

WHEREAS, pursuant to the Plan, the Authority has acquired North Market Building and South Market Building by exercise of the power of eminent domain; and

WHEREAS, pursuant to this City Lease, the Authority is leasing Quincy Market Building and portions of North Market Street and South Market Street from the City; and

WHEREAS, the Authority and Faneuil Hall Marketplace, Inc. (hereinafter called "Faneuil"), subject to the fulfillment of certain conditions, intend to enter into the Indenture of Lease attached hereto as Exhibit I (which Indenture of Lease or any sublease entered into pursuant to Section 4.01 hereof is hereinafter called the "Markets Lease").

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged the City and the Authority hereby agree as follows:

#### ARTICLE I

##### Lease of City Property

Section 1.01 The City, for and in consideration of the rents, covenants and agreements hereinafter reserved, mentioned and contained on the part of the Authority to be paid, kept,

observed and performed, has leased, rented, let and demised, and by these presents does lease, rent, let and demise unto the Authority, and the Authority does hereby take and hire, upon and subject to the conditions and limitations hereinafter expressed, the "City Property" (as defined in Section 2.01 hereof), to have and to hold the City Property, subject as aforesaid, and subject to the terms, covenants, agreements and provisions hereof, unto Lessee for the uses and purposes described in Article IV of the Markets Lease for the "Term" (as defined in Section 6.01 hereof).

## ARTICLE II

### Definitions

Section 2.01. The term "City Property" shall mean the parcels of land described in Exhibit II, attached hereto and hereby made a part hereof, and shown on Exhibit III attached hereto and hereby made a part hereof, and all improvements, fixtures, appurtenances and easements, and all alterations, replacements, additions and substitutions therefor, now or hereafter located thereon.

Section 2.02. The term "Markets Lessor" shall mean the Lessor under the Markets Lease.

Section 2.03. The term "Markets Lessee" shall mean the Lessee under the Markets Lease.



Section 2.04. The term "Sublease" shall mean a sublease between the Markets Lessee and a "Subtenant" (as defined in Section 2.05 hereof) of any individual parts, floors or areas of the City Property which the Markets Lessee is permitted to sublet pursuant to the Markets Lease.

Section 2.05. The term "Subtenant" shall mean any person, firm, corporation or other legal entity occupying any part of the City Property under a Sublease.

Section 2.06. The term "Rehabilitation" shall mean the restoration and renovation of the City Property pursuant to Article X of the Markets Lease.

Section 2.07. The term "Commencement Date" shall mean the date hereof.

Section 2.08. The term "Improvements" shall mean all improvements constructed, restored, or renovated by the Markets Lessee on the City Property pursuant to Article X of the Market Lease, including those which are part of the City Property as of the date hereof.

Section 2.09. The following terms shall have the same meanings as are set forth in the Markets Lease: Leasehold Mortgage (Section 2.16 of the Markets Lease); Leasehold Mortgagee (Section 2.17 of the Markets Lease); Taking (Section 2.25 of the Markets Lease).

### ARTICLE III

#### Title and Condition of City Property

Section 3.01. The City Property is subject to:

- (a) the existing state of title thereof as of the Commencement Date;
- (b) any state of facts which an accurate survey or physical inspection thereof might show;
- (c) all zoning regulations, restrictions, rules and ordinances, building restrictions and other laws and regulations now in effect or hereafter adopted by any governmental authority having jurisdiction; and
- (d) the physical condition of buildings, structures and other improvements, and any fixtures, located on the City Property as of the Commencement Date, without representation or warranty of any kind by the City.

### ARTICLE IV

#### The Markets Lease; Assignment and Subletting

Section 4.01. The Authority may enter into the Markets Lease or a sublease of the City Property which is in substantially the same form as the Markets Lease.

Section 4.02. At any time, and from time to time, prior



or subsequent to entering into the Markets Lease, the Authority and the Markets Lessee may make changes, modifications or amendments to the Markets Lease which are not material. Prior to the making of any material changes, modifications or amendments, the Authority shall submit to the Corporation Counsel of the City, for his or her review and approval, any such changes, modifications or amendments.

Section 4.03. The Authority shall, upon the request of the City:

- (a) diligently enforce the rights and remedies available to it under the Markets Lease; and
- (b) require diligent and prompt performance by the Markets Lessee of all of the obligations of the Markets Lessee relating to the City Property under the Markets Lease.

Section 4.04. The Authority shall perform the obligations required to be performed by the Markets Lessor under the Markets Lease.

Section 4.05. The City acknowledges, and shall recognize, the rights of the Markets Lessor and the Markets Lessee under the Markets Lease with respect to assignment, subletting, mortgaging and transfer.

Section 4.06. Except as provided in this Article IV, the Authority shall not assign or sublet its leasehold interest in the City Property.

## ARTICLE V

### Quiet Enjoyment

Section 5.01. The City represents and warrants that it has the right, power and authority to enter into this City Lease and that the Authority, upon paying the Rent (as defined in Section 7.01 hereof) and additional rents reserved herein and observing and keeping the covenants, agreements and stipulations of this City Lease on the Authority's part to be paid, observed and kept, shall lawfully, peaceably and quietly hold, occupy and enjoy the City Property during the Term, without hindrance, ejection or molestation by the City or any person or persons claiming under the City; provided, that the Authority shall have the right to terminate this Lease or to seek a rent abatement for a material breach of this covenant. The City and its agents may enter and examine the City Property at all reasonable times for the purpose of determining whether the Authority is in compliance with the terms hereof.

## ARTICLE VI

### Term of Lease

Section 6.01. The term of this Lease (hereinafter called the "Term") shall be the period commencing on the date hereof and ending at midnight on the date which is ninety-nine years after the commencement date of the Markets Lease or on that date resulting from an earlier termination as hereinafter provided.



## ARTICLE VII

### Rent

Section 7.01. The Authority covenants to pay the City, at the City's address for notice set forth in Section 13.01 hereof or at such place or to such person as the City from time to time may designate in writing by notice to the Authority, in such coin or currency of the United States as shall at the time of payment be legal tender for the payment of all debts, public or private, as rent (hereinafter called the "Rent") for the City Property, commencing on the Commencement Date and thereafter throughout the Term, an annual rental equal to One Dollar (\$1.00).

Rent shall be payable in advance on the Commencement Date and on the first day of each calendar year thereafter.

Section 7.02. This City Lease is a net lease and the Rent, additional rent and all other sums payable hereunder to or on behalf of the City, shall be paid without notice or demand, and without set-off, counterclaim, abatement, suspension, deferments, deduction or defense except as otherwise expressly herein provided.

Section 7.03. Except as otherwise expressly herein provided, this City Lease shall not terminate, nor shall the Authority have the right to terminate this City Lease or be entitled to the abatement of any rent hereunder or any reduction or allocation thereof, nor shall the obligations of the Authority under this City Lease

be otherwise affected, by reason of any damage to or the destruction of all or any part of the City Property from whatever cause, or the taking of the City Property or any portion thereof by condemnation, requisition or otherwise for any reason whatever, or the prohibition, limitation or restriction of the Authority's use of all or any part of the City Property from whatever cause, or the interference with such use by any person, or by reason of any eviction by paramount title or otherwise, (subject, however, to the provisions of Section 5.01 hereof) or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of parties hereto that the obligations of the Authority hereunder shall be separate and independent covenants and agreements, that the Rent, additional rent and all other sums payable by the Authority hereunder shall continue to be payable in all events, and that the obligations of the Authority hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this City Lease.

#### ARTICLE VIII

##### Compliance with Laws and Regulations

Section 8.01. The Authority shall, at its sole cost and expense, comply with and shall cause the City Property and the Markets Lessee to comply with (i) all federal, state, county, municipal and other governmental statutes, laws, rules, orders,



regulations and ordinances affecting the City Property or any part thereof, or the use thereof, including those which require the making of any structural, unforeseen or extraordinary changes, whether or not any such statutes, laws, rules, orders, regulations or ordinances which may be hereafter enacted involve a change of policy on the part of the governmental body enacting the same, and (ii) all rules, orders and regulations of the National Board of Fire Underwriters or other bodies exercising similar functions in connection with the prevention of fire or the correction of hazardous conditions, which apply to the Property. The Authority shall comply or cause the Markets Lessee to comply, with each and every requirement of all policies of public liability, fire and other insurance which at any time may be in force with respect to the City Property.

Section 8.02. Nothing herein shall limit the right of the Authority to contest the validity or enforceability of any statute, law, rule, order, regulation or ordinance with which the Authority may be requested to comply hereunder.

Section 8.03. The City and the Authority acknowledge the existence of Chapter 188 of the Massachusetts Acts and Resolves of 1970 and agree to abide by the provisions thereof. If the pushcart market and fruit and produce vendors referred to therein are displaced from their present location on Blackstone Street

between North Street and Hanover Street and the City provides for the nonexclusive use by such vendors of portions of South Market Street and North Market Street, included within the City Property, then, in that event, the City shall provide, at its expense, clean-up and maintenance services presently furnished to such vendors by the City. Any relocation of such vendors to South Market Street and North Market Street shall, to the extent reasonably practicable, be without interference to Improvements constructed on the City Property.

#### ARTICLE IX

##### Ownership of Improvements

Section 9.01. Subject to the provisions of the Markets Lease relating to the rights of the Markets Lessee and any Leasehold Mortgagee, and to Section 15.01. hereof, title to all Improvements constructed on the City Property by the Authority shall be and remain in the Authority until the expiration of the Term (unless this City Lease shall be sooner terminated as herein provided), and upon such expiration or sooner termination, title to such Improvements as are then remaining shall automatically pass to, vest in, and belong to the City without further action on the part of either party and without cost or charge to the City. The Authority and the City covenant that in order to confirm the automatic vesting of title as provided in this Section 9.01, each will execute and deliver such further assurances and instruments of assignment and conveyance as may be reasonably required by the other for that purpose.



ARTICLE X.

Condemnation

Section 10.01. If there is a Taking which results in the termination of the Markets Lease, this City Lease shall, at the election of the Authority, terminate simultaneously therewith.

Section 10.02. The City agrees to recognize the rights of the Markets Lessor and the Markets Lessee to awards and payments for a Taking, in accordance with Article XII of the Markets Lease.

ARTICLE XI

Insurance, Restoration or Reconstruction of City Property

Section 11.01 During the Term, the Authority shall:

- (a) comply with all of the obligations of the Markets Lessor under Article XIII of the Markets Lease;
- (b) promptly and diligently pursue all of the rights and remedies available to it under Article XIII of the Markets Lease;
- (c) cause insurance to be maintained in accordance with the Markets Lease; and
- (d) cause the City Property to be restored and reconstructed in accordance with the Markets Lease.

ARTICLE XII.

Default

Section 12.01. It shall constitute an "Event of Default" under this City Lease if the Authority at any time during the Term shall fail (i) to make payment of any installment of Rent; or (ii) to observe or perform any of the Authority's other covenants, agreements or obligations hereunder; and if any such default shall not be cured as to (i) within ten (10) days after receipt of written or telegraphic notice thereof by the Authority or as to (ii) within thirty (30) days after the City shall have given to the Authority written notice specifying such default (or, in the case of any default referred to in clause (ii) which cannot with diligence be cured within such thirty (30) day period, if the Authority shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with diligence, it being intended, in connection with a default not susceptible of being cured with diligence within such thirty (30) day period, that the time of the Authority within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with diligence).



Section 12.02. If any Event of Default shall have happened and be continuing, the City shall have the right, at its election, then or at any time thereafter while any such Event of Default shall continue, to give the Authority notice of the City's intention either (i) to terminate the Term of this City Lease or (ii) to reenter and take possession of the City Property on a date specified in such notice, which date shall not be less than ten (10) days after the date of giving of such notice, and on the date specified in any such notice, the Authority's right to possession of the City Property shall cease and the Authority shall peaceably and quietly yield to and surrender to the City the City Property, and if the City shall have given notice of its intention to terminate the Term of this City Lease, the Term of this City Lease shall thereupon be terminated.

In the event such notice is given, the City shall have the immediate right of reentry and possession of the City Property and the right (subject to the rights of the Markets Lessee and the Subtenants under Article XV hereof) to remove all persons and property therefrom. Should the City take possession pursuant to legal proceedings or pursuant to any notice provided for by law, the City may thereafter either terminate the Term of this City Lease or from time to time, without terminating the Term of this City Lease, relet the Property

or any part thereof for such term or terms and at such rental or rentals and upon such terms and conditions as Lessor may deem advisable, with the right to make alterations and repairs to the City Property.

Section 12.03. In the event of any termination of the Term of this City Lease as provided in Section 12.02 hereof or as otherwise permitted by law, the City may enter upon the City Property, and again have, repossess and enjoy the same as if this Lease had not been made (subject to the rights of the Markets Lessee and the Subtenants under Sections 15.03 and 15.05 hereof), and in any such event neither the Authority nor any person claiming through or under the Authority by virtue of any statute or of an order of any court shall be entitled to possession or to remain in possession of the City Property but shall forthwith quit and surrender the same, and the City shall be entitled to proceed with any rights or remedies available to it under law or equity.

Section 12.04. If the City shall reenter and obtain possession of the City Property by reason of or following any default of the Authority, whether or not the Term shall have terminated, the City shall have the right, without notice to repair or alter the City Property in such manner as the City may deem necessary or advisable so as to put the City Property in good order and to make the same rentable, considering the



use of the City Property immediately prior thereto, and shall have the right, at the City's option, to relet the City Property or any part thereof.

Section 12.05. No such reentry or taking of possession of the City Property by the City shall be construed as an election on the City's part to terminate the Term unless a written notice of such intention be given to the Authority or unless the termination hereof be decreed by a court of competent jurisdiction.

Section 12.06 No right or remedy herein conferred upon or reserved to the City or the Authority is intended to be exclusive of any other right or remedy, except as expressly stated herein, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute, except as such rights or remedies as expressly limited herein.

Section 12.07 If the City at any time during the Term shall fail to observe or perform any of the City's covenants, agreements or obligations hereunder, and if any such default shall not be cured, as to any default resulting from the nonpayment of money, within ten (10) days after receipt of written or telegraphic notice thereof by the Authority, or as to any other default, within thirty (30) days after the Authority shall have given to the City written notice specifying such default (or, in the case of any default not resulting from the nonpayment of money which cannot with diligence be

cured within such thirty (30) day period, if the City shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with diligence, it being intended, in connection with a default not susceptible of being cured with diligence within such thirty (30) day period, that the time of the City within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with diligence), then the Authority shall have the right to elect and pursue any right or remedy available to it under law or equity.

Section 12.08. In the event performance of any of their respective covenants, agreements or obligations under this City Lease by the City or the Authority is prevented, interrupted or delayed by causes beyond the City's or the Authority's control, as the case may be, including but not restricted to strike, lockout, action of labor unions, riot, storm, flood, explosion, acts of God or of the public enemy, acts of government, acts of the other party prohibited by this City Lease, war invasion, insurrection, mob violence, sabotage, malicious mischief, inability (notwithstanding good faith and diligent efforts) to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, fires, epidemics, quarantine restrictions, freight embargoes, unusually severe weather, inability (notwithstanding good faith and diligent efforts) to obtain governmental permits or approvals, or delays of contractors or



subcontractors due to such causes, and not caused by any act or failure to act by the party thereby delayed in such performance, the date or time or times for the performance of such covenant, agreement or obligation by the City or the Authority is so prevented, interrupted or delayed and, in such case, neither the City nor the Authority shall be liable for any costs, losses, damages, injuries or liabilities caused to or suffered or incurred by the City or the Authority in connection with, or as a result of, any such delay in, or nonperformance of, such covenant, agreement or obligation. In the event that either the City or the Authority intends to avail itself of the provisions of this Section 12.08, it shall give written notice of such intent to the other, such notice to be given not more than fifteen (15) days from the date performance of such covenant, agreement or obligations was so prevented, interrupted or delayed.

#### ARTICLE XIII

##### Notices and Demands

Section 13.01 All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to the terms hereof, shall be in writing, and shall be deemed to have been properly given if sent by registered or certified United States Mail, postage prepaid, return receipt requested, addressed, if intended for the City, to it at City Hall, Boston, Massachusetts, Attention of the Mayor, and if intended for Lessee to it at American City

Building, Columbia, Maryland 21044, Attention of the Secretary. The City or the Authority shall, at any time and from time to time, have the right to specify as its proper address for purposes of this City Lease any other address or addresses upon giving fifteen (15) days' written notice thereof to the other party.

#### ARTICLE XIV

##### Indemnification

Section 14.01 The Authority shall pay, and protect, indemnify and save harmless the City from and against any and all liabilities, losses, damages, costs, expenses (including all reasonable attorneys' fees and expenses of the Authority and of the City), causes of action, suits, claims, demands or judgments of any nature whatsoever (except those which result from the acts of the City) which may be imposed upon or incurred by or asserted against the City by reason of (i) any accident, injury to, or death of any person or any damage to property occurring on the City Property or any part thereof (except as may result from the acts of the City) or (ii) any use, nonuse, condition, or occupation of the City Property or any part thereof or resulting from the condition thereof or of adjoining sidewalks, streets or ways, or (iii) any failure by the Authority to perform or comply with any of the terms hereof or of any contracts, agreements or restrictions, statutes, laws, ordinances or regulations affecting the City Property or any part thereof or the ownership, occupancy or use thereof.



ARTICLE XV.

Rights of Markets  
Lessee, Leasehold  
Mortgagees and Subtenants

Section 15.01. In the event of a termination of this City Lease, the City shall not disturb the possession of the Markets Lessee under the Markets Lease for so long as the Markets Lessee is not in default under the Markets Lease. The rights of nondisturbance granted hereunder shall run to and benefit the Markets Lessee and its successors and assigns, including Leasehold Mortgagees.

Section 15.02. The City shall accept performance and compliance by the Markets Lessee and any Leasehold Mortgagee with any term, covenant, agreement, provision, condition or limitation on the Authority's part to be kept, observed or performed hereunder with the same force and effect as though kept, observed or performed by the Authority. In case of the termination of this City Lease by reason of the happening of any Event of Default, the City shall give notice thereof to the Markets Lessee and any Leasehold Mortgagee which shall have notified the City of its name and address.

If an Event of Default under this City Lease results in a termination hereof and if within thirty (30) days after the mailing of notice to the Markets Lessee and Leasehold Mortgagee either the Markets Lessee or the Leasehold Mortgagee shall commence and be proceeding with due diligence to cure the

default specified in the notice, then the City shall, upon the written request of the Markets Lessee or such Leasehold Mortgagee made at any time within said thirty (30) day period, mutually enter into a new lease of the City Property with the Markets Lessee or Leasehold Mortgagee for the remainder of the Term, and with priority equal hereto at the rent and upon the terms, covenants, agreements, provisions, conditions and limitations herein contained, modified, however, mutatis mutandis to reflect the changed circumstances.

Section 15.03. In the event of termination of this City Lease, the possession of Subtenants of the Markets Lessee shall not be disturbed for so long as said Subtenants are not in default under their respective leases. The right of nondisturbance granted hereunder shall run to and benefit such Subtenants and their respective successors and assigns.

Section 15.04. At the request of the City, the Markets Lessee, Leasehold Mortgagee and Subtenants shall attorn to the City and shall execute and deliver such instruments as the City shall reasonably request to confirm such attornment.

Section 15.05. At the request of the Markets Lessee or Leasehold Mortgagee, the City will execute and deliver a non-disturbance agreement incorporating the terms of sections 15.01 and 15.02 hereof, and at the request of any Subtenant, the City will execute and deliver a nondisturbance agreement incorp-



orating the terms of Section 15.03 hereof.

Section 15.06. Notwithstanding the provisions of Sections 15.03 and 15.05 hereof, the City shall not be required to recognize the nondisturbance rights of any Subtenant under a Sublease providing for a term of more than fifteen years, including extensions and renewals, unless such Sublease has been approved by the Corporation Counsel of the City; provided, however, any such Sublease submitted by the Authority or the Markets Lessee to the Corporation Counsel of the City for approval shall be deemed approved unless, within thirty days after such submission, the Corporation Counsel shall have given written notice to the party submitting such Sublease of the disapproval of such Sublease, which notice shall specify the reasons for such disapproval.

Section 15.07. The City shall send copies of any notice of default under this City Lease to the Markets Lessee at the address for notices set forth in Article XVI of the Markets Lease and to any Leasehold Mortgagee, the name and address of which has been furnished to the City.

#### Article XVI

##### Termination of Markets Lease

Section 16.01. In the event that the Markets Lease terminates prior to the expiration of the Term hereof, this City Lease shall terminate automatically on the date of termination of the Markets Lease. The City shall, upon the written request of the Auth-

ority made at any time within one hundred and eighty (180) days of such termination, execute and deliver to the Authority within thirty (30) days thereafter a new lease of the City Property for the remainder of the Term, and with priority equal thereto at the rent and upon the terms, covenants, agreements, provisions, conditions and limitations herein contained, modified, however, mutatis mutandis to reflect the changed circumstances.

## ARTICLE XVII

### Miscellaneous

Section 17.01 No member, official, or employee of the City shall have any personal interest, direct or indirect, in this City Lease, nor shall any such member, official, or employee of the City be personally liable to the Authority, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Authority or successor or on any obligations under the terms of this City Lease.

Section 17.02. The City and the Authority shall at any time and from time to time, within ten (10) days after written request by the other, execute, acknowledge and deliver to the party which has requested the same, to the Markets Lessee, to any prospective Leasehold Mortgagee under the Markets Lease or to any assignee or Subtenant, a certificate stating (i) that this City Lease is unmodified and



in force and effect (or if there have been modifications, that this City Lease is in force and effect as modified, and identifying the modification, or if this City Lease is not in force and effect the certificate shall so state); (ii) the date to which rental has been paid under this City Lease; (iii) whether there is any existing default by the Authority in the payment of any rent or other sum of money under this City Lease and whether there is any other existing default by either party under this City Lease with respect to which a notice of default has been served; and if there is any such default, specifying the nature and extent thereof; and (iv) whether there are any setoffs, defenses or counter-claims against enforcement of the obligations of the City hereunder. After issuance of any such certificate, the issuer shall be estopped from denying the veracity or accuracy of the same.

Section 17.03. The headings of the various Articles of this City Lease have been inserted for convenience and reference only and shall not in any manner be construed as modifying, amending or affecting in any way the express terms and provisions hereof.

Section 17.04. Except as herein otherwise provided, whenever in this City Lease the consent or approval of the City or the Authority is required, such consent or approval shall not be unreasonably withheld, and shall be in writing,

signed by an officer or agent thereunto duly authorized, of the party granting such consent or giving such approval.

Section 17.05. This City Lease, and any modifications thereof or additions thereto, shall be duly recorded by the Authority among the land records of the Suffolk County Registry of Deeds, and the costs of such recordation and any and all Federal revenue stamps which legally must be attached to any of said papers shall be paid by the Authority.

Section 17.06. There shall be no merger of this City Lease or of the leasehold estate hereby created with the fee estate in the City Property or any part thereof by reason of the fact that the same person may acquire or hold, directly or indirectly, this City Lease or the leasehold estate hereby created or any interest in this City Lease or in such leasehold estate as well as the fee estate in the City Property or any interest in such fee estate.

Section 17.07. Upon the expiration or earlier termination of this City Lease, the Authority shall peaceably leave and surrender the City Property to the City in the same condition in which the City Property was originally received from the City at the commencement of this City Lease, except as repaired, rebuilt, restored, altered, or added to as permitted or required by any provision of this City Lease or the Markets Lease and except for ordinary wear and tear. The Authority shall remove from the City Property on or prior to such expiration or earlier termination all property situated thereon which is not owned by

the City, and, at its expense, shall, on or prior to such expiration or earlier termination, repair any damage caused by such removal. The City Property not so removed shall become the property of the City, and the City may thereafter cause such property to be removed from the City Property and disposed of, but the cost of any such removal and disposition and the cost of repairing any damage caused by such removal shall be borne by the Authority.

Section 17.08. Each and every covenant and agreement contained in this City Lease is, and shall be construed to be, a separate and independent covenant and agreement, and the breach of any such covenant or agreement by the City shall not discharge or relieve the Authority from its obligations to perform the same. If any term or provision of this City Lease or the application thereof to any person or circumstances shall to any extent be invalid and unenforceable, the remainder of this City Lease or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this City Lease shall be valid and shall be enforced to the extent permitted by law.

Section 17.09. All of the covenants, conditions and obligations contained in this City Lease shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the Authority to the same extent



as if each such successor and assign were in each case named as a party to this City Lease. Any person, corporation or other legal entity acquiring any or all of the rights, title and interest of the Authority in and to the leasehold estate in the City Property shall thereby become liable under and be fully bound by all of the provisions of this City Lease.

Section 17.10. Nothing herein shall be deemed or construed by the parties hereto or by any third party as creating or authorizing the creation of any partnership or joint venture between the City and the Authority, it being understood and agreed that no provision of this City Lease, nor any act of the City or the Authority hereafter, shall be deemed to create any relationship between the City and the Authority other than the relationship of landlord and tenant.

Section 17.11. This Lease may not be modified except by a writing signed by the City and the Authority.

Section 17.12. This City Lease shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the undersigned, the City of Boston and the Boston Redevelopment Authority have executed this City Lease as of the date and year first above written.

ATTEST:

CITY OF BOSTON

\_\_\_\_\_  
SEAL

APPROVED AS TO LEGAL FORM

BY \_\_\_\_\_

\_\_\_\_\_  
Corporation Counsel

ATTEST

BOSTON REDEVELOPMENT AUTHORITY

\_\_\_\_\_  
SEAL

APPROVED AS TO LEGAL FORM

BY \_\_\_\_\_

\_\_\_\_\_  
General Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

On this       day of       , 1974, before me, a Notary Public in said Commonwealth, duly commissioned and sworn, personally appeared       , known to me to be the       of the City of Boston, who executed the within instrument on behalf of the City of Boston and acknowledged same to be the free act and deed of said City, and on oath stated that he was authorized to execute said instrument.

\_\_\_\_\_  
Notary Public

My Commission expires  
\_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

On this       day of       , 1974, before me, a Notary Public in said Commonwealth, duly commissioned and sworn, personally appeared       known to me to be the       of the Boston Redevelopment Authority, who executed the within instrument on behalf of the Boston Redevelopment Authority and acknowledged same to be the free act and deed of said Authority, and on oath stated that he was authorized to execute said instrument.

\_\_\_\_\_  
Notary Public

My Commission expires:  
\_\_\_\_\_



EXHIBIT I  
OF THAT CERTAIN  
INDENTURE OF LEASE  
BETWEEN  
BOSTON REDEVELOPMENT AUTHORITY  
AND  
CITY OF BOSTON

DATED: \_\_\_\_\_

(See Exhibit I of Redevelopment Agreement  
dated as of \_\_\_\_\_  
between Boston Redevelopment Authority  
and Faneuil Hall Marketplace, Inc.)

EXHIBIT II

Attached to and forming part of a certain Indenture of Lease dated as of  
1974, between the CITY OF BOSTON and the BOSTON REDEVELOPMENT  
AUTHORITY.

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All those certain lots or parcels of land situated in the City of Boston,  
County of Suffolk, Commonwealth of Massachusetts, known and described as follows:

Parcel I

Beginning at a point being the intersection of the southerly sideline of formerly  
North Market Street and the westerly sideline of Commercial Street, thence running  
in a southerly direction on the westerly sideline of Commercial Street a distance  
51.73' along a bearing of S07°47'36"E

Thence turning and running 11.65' on a bearing of S81°51'02"W on the northerly  
sideline of formerly South Market Street

Thence turning and running in a northerly direction 0.37' on a bearing of  
N07°40'54"W

Thence turning and running in a westerly direction 46.45' on a bearing of  
S82°28'49"W

Thence turning and running in a northerly direction 0.49' on a bearing of N07°31'11"W

Thence turning and running in a westerly direction 172.90' on a bearing of  
S82°22'27"W

Thence turning and running in a southerly direction 2.52' on a bearing of  
S07°31'11"E

Thence turning and running in a westerly direction 74.63' on a bearing of  
S82°27'41"W

Thence turning and running in a northerly direction 2.52' on a bearing of  
N07°31'11"W

Thence turning and running in a westerly direction 173.03' on a bearing of  
S82°28'41"W

Thence turning and running in a westerly direction 46.35' on a bearing of  
S82°36'45"W

Thence turning and running in a southerly direction 0.43' on a bearing of  
S07°39'40"E

Thence turning and running in a westerly direction 15/57' on a bearing of S82°34'22"W

Thence turning and running in a northerly direction on the easterly sideline of formerly Merchants Row 52.01' on a bearing of N07°38'45"W

Thence turning and running in an easterly direction on the southerly sideline of formerly North Market Street 15.60' on a bearing of N82°24'32"E

Thence turning and running in a southerly direction 0.43' on a bearing of S07°39'49"E

Thence turning and running in an easterly direction 46.30' on a bearing of N82°28'48"E

Thence turning and running in a southerly direction 0.42' on a bearing of S07°31'12"E

Thence turning and running in an easterly direction 173.00' on a bearing of N82°28'48"E

Thence turning and running in a northerly direction 2.47' on a bearing of N07°31'12"W

Thence turning and running in an easterly direction 74.75' on a bearing of N82°28'48"E

Thence turning and running in a southerly direction 2.34' on a bearing of S07°31'12"E

Thence turning and running in an easterly direction 172.83' on a bearing of N82°28'48"E

Thence turning and running in a northerly direction 0.51' on a bearing of N07°31'12"W

Thence turning and running in an easterly direction 46.45' on a bearing of N82°28'48"E

Thence turning and running in a northerly direction 0.37' on a bearing of N07°40'54"W

Thence turning and running in an easterly direction 11.54' on a bearing of N82°51'12"E to the point of origin.

Containing an area of 27,727 square feet.



TOGETHER WITH the entire building situated on said described land known as the "Faneuil Hall Market" or the "Quincy Market".

Parcel II

So much of the following described parcel of land as is not included in Parcel I and is not presently owned by the Authority:

Beginning at a point being the intersection of the southerly sideline of Clinton Street and the westerly sideline of Commercial Street, also being a point on the Mass. Coordinate System, N496109.90, E720439.77,

thence running in a southerly direction on the westerly sideline of Commercial Street a distance of 50.25' along a bearing of S07°-45'-43"E,

thence a distance of 64.18' along a bearing of S07°-57'-00"E,

thence 51.73' along a bearing of S07°47'-36"E,

thence 10.131' along a bearing of S06°-47'-46"E,

thence 64.97' on a bearing of S07°-35'-04"E,

thence turning and running along a westerly direction on the northerly sideline of Chatham Street a distance of 27.88' along a bearing of S82°- 24'-56"W,

thence 234.58' along a bearing of S82°-26'-52"W,

thence 69.05' on a bearing of S82°-30'-07"W,

thence a distance of 188.48' on a bearing of S82°-26'-14"W,

thence 52.66' on a bearing of S79°-42'-58"W

thence turning and running in a northerly direction a distance of 63.93' along a bearing of N07°-54'-44"

thence turning and running in a westerly direction a distance of 64.39' along a bearing of S82°-29'-17"W,

thence a distance of 0.68' on a bearing of S82°-34'-41"W,

thence turning and running in the northerly direction a distance of 2.00' along a bearing of N10°-43'-40"W,

thence turning and running in a westerly direction a distance of 75.45' along a bearing of S82°-23'48"W,

thence turning and running in a northerly direction a distance of 42.87' along a bearing of N07°-54'-01"W,

thence turning and running in an easterly direction a distance of 132.77' on a bearing of N82°-23'-37"E,

thence turning and running in a northerly direction a distance of 141.00' along a bearing of N07°-33'-41"W,

thence turning and running in a westerly direction a distance of 133.59' along a bearing of S82°-26'-14"W,

thence turning and running in a northerly direction a distance of 48.31' along a bearing of N07°-53'-59"W, to a point,

thence turning and running along the southerly sideline of proposed North Street along an easterly arc of a curve to the right having a radius of 950.00' an arc distance of 95.31',

thence continuing along an easterly arc of a curve to the right having a radius of 453.00' an arc distance of 50.01',

thence a distance of 44.38' along a bearing of N54°-02'-48"E,

thence along a southeasterly arc of a curve to the left having a radius of 11.00' an arc distance of 17.57',

thence a distance of 29.13' on a bearing of S36°-20'-05"E, ✓

Thence turning and running in an easterly direction on the southerly sideline of Clinton Street a distance of 157.25' along a bearing of N82°-25'-17"E to the westerly property line of Durgin Park Parcel

thence turning and running in a southerly direction along the westerly sideline of Durgin Park a distance of 57.06' on a bearing of S07°-49'-29"E

thence turning and running in an easterly direction a distance of 66.00' on a bearing of N82°-26'-42"E,

thence turning and running in a northerly direction along the easterly property line of Durgin Park a distance of 57.09' on a bearing of N07°-49'-28"W,

thence turning and running in an easterly direction a distance of 89.88' on a bearing of N82°-25'-17"E,

thence a distance of 152.35' on a bearing of N84°-28'-26"E,

thence a distance of 46.79' along a bearing of N84°-22'-47"E to the point of beginning.

Containing an area (excluding Quincy Market Building) of one hundred eighty-one thousand six hundred thirty-six (181,636) square feet, more or less.



THE CITY hereby reserves unto itself and the Authority hereby grants and conveys unto the City the following described rights and easements:

- (a) a perpetual, non-exclusive easement, for the benefit of and use by the general public, for reasonable, peaceful and orderly pedestrian access and passage between Dock Square and Commercial Street and between Chatham Street and North Street (all as shown on Exhibit III) such pedestrian access and passage to be over and upon the surface of such portions of former North Market Street, former South Market Street, former Merchants Row and former Faneuil Hall Square (all as shown on Exhibit III) as shall not be occupied from time to time by any buildings or other structures, whether existing on the date hereof or hereafter constructed by the Markets Lessee pursuant to the Markets Lease, provided, that the Markets Lessee may interrupt such pedestrian access and passage to the extent that such interruption shall be reasonably necessary in order to enable the Markets Lessee to carry out the Rehabilitation (as defined in the Markets Lease) or the maintenance or repair of the Property (as defined in the Markets Lease) from time to time or to enable the Markets Lessee to carry out the construction of such additional structures and other improvements from time to time as may be required or permitted under the terms of the Markets Lease; and
- (b) a perpetual, non-exclusive utility easement for the benefit of and use by the City and its permitted assigns hereinafter mentioned, for the installation, construction, maintenance and repair of utility facilities including but not limited to water, gas, electric and telephone lines, pipes, conduits and cables and storm and sanitary sewers (but excluding any subway or other transportation facility), below the surface of those portions of former North Market Street, former South Market Street, former Merchants Row and former Faneuil Hall Square as are shown on Exhibit III, provided, that (i) nothing in this clause (b) shall in any way limit or impair the right of the Markets Lessee to construct improvements in, upon, above and under the portions of former North Market Street, former South Market Street, former Merchants Row and former Faneuil Hall Square shown on Exhibit III as permitted or required under the Markets Lease, except that if any structure is erected by the Markets Lessee in the easement area and



such structure shall interfere with the exercise by the City of the rights granted and reserved pursuant to this clause (b), with respect to any utility facility existing on the date hereof, such structure shall be removed by the Markets Lessee at its cost and expense, and (ii) except in case of emergency, the City will give twenty (20) days written notice to the Authority and the Markets Lessee prior to the commencement of any such installation, construction, maintenance or repair, and (iii) the City shall prosecute any such installation, construction, maintenance or repair with diligence to completion (subject to delay on account of any cause mentioned in Section 15.11 of the Markets Lease) and without any unnecessary interference with or disruption of the operations on the Property (as defined in the Markets Lease) of the Markets Lessee or any Subtenant (as defined in the Markets Lease), and (iv) in any event, the City shall not prosecute or carry on any such installation, construction, maintenance, or repair activity (except those repairs which in the City's reasonable judgment are deemed to be necessary by reason of emergency) during the period commencing with Thanksgiving and ending on Christmas in any year or during the four (4) week period preceding Easter in any year, and (v) during the course of any such construction, installation, maintenance or repair, the City will not unnecessarily interfere with or disrupt any utility serving any building or other structure on the Property and (vi) in carrying out any such construction, installation, maintenance or repair, the City shall use reasonable care not to damage or unreasonably interfere with any underground moisture barrier or retardant device or system serving or protecting any building on the Property, and (vii) upon completion of any such construction, installation, maintenance and repair, the City shall restore the surface of the easement area to the same state and condition as existed immediately prior to the commencement of such construction, installation, maintenance or repair and will, thereafter, make such additional construction or repair as may become necessary as the result of any defective installation, construction or repair of such utility facilities or any defective restoration or repair of the surface, except that the City (but not its assigns hereinafter

mentioned) shall not be required to utilize any paving materials in restoring the surface of any such area other than asphalt, bituminous concrete or concrete.

The City may from time to time assign some or all of the rights (but subject nevertheless to the conditions, limitations and obligations set forth above) granted or reserved by the City in clause (b) above to any public utility company; provided, however, that written notice of such assignment shall be given promptly to the Markets Lessee in accordance with the provisions of Section 6.01 of the Markets Lease.



EXHIBIT III  
OF THAT CERTAIN  
INDENTURE OF LEASE  
BETWEEN  
CITY OF BOSTON  
AND

BOSTON REDEVELOPMENT AUTHORITY

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(See Exhibit III of that certain Redevelopment Agreement  
dated as of \_\_\_\_\_, 1974, between Boston  
Redevelopment Authority and Faneuil Hall Marketplace, Inc.)